

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

CHARLES MAMOU, JR.,	§	
	§	
Petitioner,	§	
	§	
-VS-	§	No. 4:14-CV-00403
	§	
LORIE DAVIS,	§	
Director, Texas	§	
Department of Criminal Justice,	§	
Correctional Institutions Division,	§	(<u>Death Penalty Case</u>)
	§	
Respondent.	§	

MOTION TO WITHDRAW AS ATTORNEY OF RECORD

Undersigned A. Richard Ellis, hereby moves to withdraw as counsel of record for Petitioner Charles Mamou, Jr. in the above-entitled action, due to a conflict regarding strategy and to safeguard the Petitioner's ongoing interests in this capital matter.

I. Brief Procedural History.

Undersigned counsel was appointed by this Court to represent Mr. Mamou in his federal habeas proceedings on February 20, 2014. (ECF No. 3). Through undersigned counsel, Mr. Mamou filed his habeas petition (ECF Nos. 34 and 39); his reply brief (ECF No. 50); and Mr. Mamou's petition was dismissed in this Court on December 8, 2016. (ECF Nos. 50 and 51).

Undersigned counsel subsequently represented Mr. Mamou on appeal in the Fifth

Circuit Court of Appeals. Mamou applied for a certificate of appealability (“COA”) on three issues in the Fifth Circuit and on September 14, 2017, that Court issued a per curiam opinion granting a COA on two issues; another issue did not require a COA. *Mamou v. Davis*, No. 17-70001 (5th Cir. Sept. 14, 2017) (per curiam). After oral argument, on July 19, 2018 the Fifth Circuit denied Mr. Mamou's petition. *Mamou v. Davis*, 742 F. App'x 820 (5th Cir. 2018).

Through undersigned counsel, Mr. Mamou filed a petition for writ of certiorari in the Supreme Court of the United States on November 15, 2018. *Mamou v. Davis*, No. 18-6741. The Supreme Court denied the petition on February 19, 2019.

II. Reasons for Request to Withdraw.

Since certiorari was denied in the Supreme Court, undersigned counsel has continued to represent Mr. Mamou pro bono. However, it has lately become clear that an impasse has developed regarding strategy going forward. As Mr. Mamou states in the enclosed declaration:

In regard to any further proceedings, such as a state subsequent petition, any further federal court proceedings in the federal district court or the Fifth Circuit, or any further proceedings in the United States Supreme Court, or any further clemency proceedings, I do not want Mr. Ellis to continue representing me due to a conflict of interest in my case. A difference in opinion over strategy and how to proceed has developed which threatens my interests. I currently face the death penalty in this serious matter, and it is impossible for my current counsel Mr. Ellis to provide effective representation to me, in my opinion. I am requesting that Mr. Ellis be allowed to withdraw as my counsel of record.

(Declaration of Charles Mamou, Jr., April 19, 2021) (Revised)

This difference of opinion and resulting conflict renders it impossible for undersigned counsel to provide effective representation to Mr. Mamou in any forthcoming proceedings such as a further state petition, subsequent federal petition, or executive clemency proceedings. No execution date has been set for Mr. Mamou.

Wherefore, undersigned counsel respectfully requests that this Court grant his motion to withdraw as counsel of record for Mr. Mamou.

DATED: April 26, 2021.

Respectfully submitted,

s/ A. Richard Ellis

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CERTIFICATE OF SERVICE

This certifies that on April 26, 2021, I electronically filed the foregoing with the clerk of court for the U.S. District Court for the Southern District of Texas using the electronic case filing system of the court. The electronic case filing system sent a notice of electronic filing to the attorney of record for Respondent, who has consented in writing to accept this notice as service of this document by electronic means.

s/ A. Richard Ellis

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DECLARATION OF CHARLES MAMOU, JR. (REVISED)

I, Charles Mamou, Jr., hereby declare as follows:

1. My name is Charles Mamou, Jr. (TDCJ No. 999333). I am over the age of 21 and am competent to make this declaration. My address is Polunsky Unit, 3872 FM 350 South, Livingston, Texas 77351.

2. My petition for certiorari (*Mamou v. Davis*, No. 18-6741) was denied on February 19, 2019.

3. I have been represented by attorney A. Richard Ellis in my federal habeas proceedings and in my cert petition

4. In regard to any further proceedings, such as a state subsequent petition, any further federal court proceedings in the federal district court or the Fifth Circuit, or any further proceedings in the United States Supreme Court, or any further clemency proceedings, I do not want Mr. Ellis to continue representing me due to a conflict of interest in my case. A difference in opinion over strategy and how to proceed has developed which threatens my interests. I currently face the death penalty in this serious matter, and it is impossible for my current counsel Mr. Ellis to provide effective representation to me, in my opinion. I am requesting that Mr. Ellis be allowed to withdraw as my counsel of record.

This declaration supercedes any earlier declaration I may have signed.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on April 19th, 2021, in Livingston, Texas.


CHARLES MAMOU, JR.